

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SHELDON SILVERSTEIN, on behalf of  
himself and all others similarly situated,

*Plaintiff,*

V.

TD AMERITRADE HOLDING CORPORATION, and TD AMERITRADE, INC., f.k.a TD WATERHOUSE INVESTOR SERVICES, INC.,

*Defendants.*

No. 08-cv-05467 (GBD)

Hon. George B. Daniels

ECF Case

NOTICE OF REQUEST TO TRANSFER FOR CONSOLIDATION WITH A RELATED CASE

Pursuant to Local Rule 15(c), the undersigned counsel for Defendants TD Ameritrade Holding Corporation, and TD Ameritrade, Inc., f.k.a TD Waterhouse Investor Services, Inc. (collectively, “Defendants”) hereby notice their request to transfer the above-captioned matter for consolidation with the related case *Humphrys v. TD Ameritrade Holding Corporation, et al*, Case No. 08-CV-2912 (PAC), assigned to the Honorable Paul A. Crotty. The above-captioned case before the Honorable George B. Daniels was transferred by the United States District Court for the District of Nebraska upon Joint Motion of the parties for the purpose of consolidation with *Humphrys*.

In support of their application, Defendants now state as follows:

1. The complaint in *Humphrys* was filed in the Southern District of New York on March 19, 2008, and the case was assigned to Judge Crotty.
2. The above-captioned case was filed in the United States District Court for the District of Nebraska one month later, on April 17, 2008.

3. On June 10, 2008, by joint motion of the parties, the above-captioned case was transferred to this Court pursuant to 28 U.S.C. § 1404 for the specific purpose of consolidation with *Humphrys*. (See Joint Motion Requesting the Transfer of Venue to the Southern District of New York (“Joint Motion”) and Order, attached to this Notice as Exhibits A and B respectively.)

4. As agreed and stipulated in the Joint Motion, it is in the interests of justice and efficiency, and would serve the convenience of the parties and witnesses, for the above-captioned case to be transferred for consolidation with *Humphrys*.

Dated: July 24, 2008

Respectfully submitted,

s/

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 24th day of July, 2008, the foregoing Joint Motion to Transfer for Consolidation with Related Case was served on the following counsel of record via the ECF system and First-class mail:

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*Counsel for Defendants  
TD Ameritrade Holding Corp. and  
TD Ameritrade, Inc.*

# EXHIBIT A

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEBRASKA**

SHELDON SILVERSTEIN, on behalf of  
himself and all others similarly situated,

*Plaintiff,*

v.

TD Ameritrade Holding Corporation, and  
TD Ameritrade, Inc., f.k.a TD Waterhouse  
Investor Services, Inc.,

*Defendants.*

No. 8:08-CV-00175-LSC-TDT

Hon. Laurie Smith Camp

ECF Case

**JOINT MOTION REQUESTING THE TRANSFER OF VENUE  
TO THE SOUTHERN DISTRICT OF NEW YORK**

Plaintiff Sheldon Silverstein (“Plaintiff”) and Defendants TD Ameritrade Holding Corporation, and TD Ameritrade, Inc., f.k.a TD Waterhouse Investor Services, Inc. (collectively, “Defendants”) hereby move this Honorable Court to transfer this action to the Southern District of New York pursuant to 28 U.S.C. § 1404(a).

In support of their joint motion, Plaintiff and Defendants now state as follows:

1. Plaintiff and Defendants stipulate and agree that the above-captioned matter could have been brought in the Southern District of New York.

2. Plaintiff and Defendants stipulate and agree that it is in the interest of justice and for the convenience of the parties and witnesses that the above-captioned matter be transferred to the Southern District of New York for consolidation with *Humphrys v. TD Ameritrade Holding*

*Corporation, et al*, Case No. 08-CV-2912(PAC), which was filed before Plaintiff filed the instant action.

Pursuant to the Local Rules, a proposed Order Granting Transfer of Venue to the Southern District of New York will be emailed to Judge Camp.

Dated: June 9, 2008.

/s/ Rebecca B. Gregory  
Thomas H. Dahlk (#15371)  
Rebecca B. Gregory (#22901)  
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#### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 9<sup>th</sup> day of June, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification to such filing to the following:

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Eduard Korsinsky  
Joseph E. Levi  
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/s/ Rebecca B. Gregory

# EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**SHELDON SILVERSTEIN,**  
on behalf of himself and all others  
similarly situated,

**Plaintiff.**

**v.**

**TD Ameritrade Holding Corporation,  
and TD Ameritrade, Inc., f.k.a TD  
Waterhouse Investor Services, Inc..**

***Defendants.***

8:08CV175

## ORDER

This matter having come before the court on Plaintiff Sheldon Silverstein's and Defendants TD Ameritrade Holding Corporation's, and TD Ameritrade, Inc.'s, f.k.a TD Waterhouse Investor Services, Inc. joint motion to transfer this action to the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 1404(a) (Filing No. 24). The court has considered the joint motion to change venue, noting the agreement of the parties, and having further found that this action might have been brought originally in the United States District Court for the Southern District of New York, and that transfer is in the interest of justice. Additionally, the court has considered the parties' joint stipulation (Filing No. 25) seeking additional time for Defendants to file an answer or otherwise respond to the amended complaint should be granted. Upon consideration,

**IT IS ORDERED:**

1. The Joint Motion for a transfer of venue (Filing No. 24) is granted.
2. Pursuant to 28 U.S.C. § 1404(a), this action shall be transferred to the United States District Court for the Southern District of New York.
3. The Clerk of this Court shall transmit to the Clerk of the United States District Court for the Southern District of New York, a certified copy of this order and all the pleadings and papers on file in the Clerk's office relating to this action.



4. The parties' Stipulation (Filing No. 25) is granted. The defendants shall have to **on or before August 11, 2008**, to answer or otherwise plead in response to the plaintiff's complaint.

DATED this 10th day of June, 2008.

BY THE COURT:

s/ Thomas D. Thalken  
United States Magistrate Judge